

MONTEREY, TOWN OF
Located in County of Highland.

Established and charter, 1848, c. 300; repealed 1914, c. 261.

Charter, 1876, c. 129; repealed 1914, c. 261.

Charter, 1914, c. 261; repealed 1952, c. 709.

Charter, 1952, c. 709.

Amended 1954, c. 69 (§ 9).

§ 1. That the town of Monterey, in the county of Highland, as the same has heretofore been, or may hereafter be laid off into lots, streets and alleys, and as its limits are, or may hereafter be established by law, is, and shall continue to be, a body politic and corporate by the name of Monterey, and as such shall have and may exercise all powers which are now, or hereafter may be, conferred upon or delegated to towns under the Constitution and the laws of the State of Virginia, as fully and completely as though said powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive and shall have, exercise and enjoy all the rights, immunities and obligations now appertaining to and incumbent on said town as a municipal corporation, and the said town of Monterey, as such, shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew or amend at its pleasure by proper ordinance. (1952, c. 709)

§ 2. The boundaries of the said town are, and shall continue to be as follows:
(1952, c. 709)

"Beginning at a locust post at the southeast corner of Monterey Cemetery, south sixty-four degrees east, one hundred thirty-two and six-tenths poles to a point in the meadow now or formerly owned by O. Wilson crossing the Monterey and Franklin road (now U.S. Route No. 220) at seventy-four poles; thence south thirty-six degrees and fifteen minutes west, one hundred forty-seven and twenty-five hundredths poles to a point in the meadow, now or formerly owned by Fleisher crossing High (Main) Street (U.S. Route No.250) at fifty-five poles; thence north sixty-four degrees west, one hundred ninety-two poles to a point on Doctor K. H. Trimble's land (now J. Seybert Hansel), crossing Spruce Street at one hundred twenty-one poles; thence north thirty-six degrees and fifteen minutes east one hundred forty-seven and twenty-five hundredths poles to a point on the L. H. Stephenson Estate land hill, crossing High (Main) Street (U. S. Route No.250) at one hundred twenty poles; thence south fifty-four degrees east, fifty-nine and four-tenths poles to the beginning." (1952, c. 709)

§ 3. There shall be elected on the second Tuesday of June, 1953, and every two years thereafter, from the qualified voters of said town, one elector of the said town, who shall be denominated the mayor, and six electors, who shall be denominated the councilmen of said town, who shall qualify by taking the oath prescribed by law before, and enter upon the duties of their offices on the first day of September next succeeding their election, and shall hold said offices for the term of two years, and thereafter until their successors are elected, and qualified, unless sooner removed. The mayor and councilmen now holding office shall continue in office until the expiration of their terms as herein specified. (1952, c. 709)

§ 4. The mayor and the said councilmen shall, together, constitute the council of said town; and in the council so composed (four of whom shall constitute a quorum for the transaction of business) shall be vested the corporate powers of the town. (1952, c. 709)

§ 5. The municipal officers of said town shall, in addition to the mayor, consist of a treasurer, sergeant, clerk of the council, and such officers as may be provided by the town council; and the council may appoint such committees of the council and create such boards and departments of town government and administration, with such powers and duties and subject to such regulations, as it may see fit, consistent with the provisions of this act and the general laws of this Commonwealth. The time of appointment of all officers may be prescribed by the council and they may be appointed for such term, not exceeding two years, as the council shall provide, but all municipal officers shall serve until their successors shall have qualified unless otherwise provided by the council. (1952, c. 709)

§ 6. The duties and compensation of all municipal officers, except as herein or by the general laws of the State defined or provided for, shall be defined and prescribed by the town council. (1952, c. 709)

§ 7. The council may appoint policemen and such other officers and agents for the proper conduct and business of the town as they deem necessary, prescribe their duties and fix their compensation and require and take from them such bond or bonds with good security and in such penalty as they may deem proper, with condition for the faithful discharge of the duties of their offices. The sergeant of the town shall be ex officio chief of police. (1952, c. 709)

§ 8. The council shall have, subject to the provisions of the general laws of the Commonwealth applicable to towns, the control and management of the fiscal and municipal affairs of the town, and all property, real and personal, belonging to it, and may make such ordinances, orders and by-laws and regulations as they may deem necessary to enforce and carry out the powers vested in the council, provided that no ordinance hereafter passed by the council, as now constituted or as hereinafter elected, for the violation of which any penalty is imposed, shall take effect until the same shall have been published one time in a newspaper published in the town, or by handbills, for one week, as the council may order. If such publication be by handbills the same shall be posted in at least three public places in the town, and a certificate of such posting shall be filed by the sergeant in the office of the clerk of the council; provided, however, that after the expiration of six months from the date of passage of any ordinance its publication shall not be questioned, or its validity affected by any failure to publish the same, nor shall this section apply to the ordinances of whatever kind now in force in the town of Monterey so as to require republication thereof. In addition thereto the council shall have the following powers which are hereby vested in them:

First: To lay off streets, walks, or alleys; to open, extend, widen, grade, curb, pave, and otherwise improve and light the same; and it may prevent and remove any structure, encroachment, or obstruction in any sidewalk, street or alley.

Second: To acquire, establish, maintain, operate, lease, extend, or enlarge any public utility within or without the limits of said town; to contract or agree with the owners of any land for the use and purchase thereof, or to have the same condemned according to law within or without the town.

Third: To secure the inhabitants from contagious, infectious or other dangerous disease.

Fourth: To regulate the operation of motor vehicles within the town and to adopt ordinances for said purpose not in conflict with the State law regulating the use, ownership and operation of motor vehicles, and to prescribe punishment for the violation of such ordinances. To require every owner of motor Vehicles residing in said town to annually register such motor vehicles and to obtain a license to operate the same and to require the said owner to pay an annual license fee to be fixed by the council.

Fifth: To prescribe and enforce quarantine regulations; to appoint and organize a board of health for said town, with authority necessary for the prompt and efficient performance of its duties and to establish, erect and regulate hospitals.

Sixth: To regulate the building of stables, privies and hog pens, to require and compel the abatement and removal of all nuisances, including the removal of snow or ice from the sidewalks in front of private properties, or anything which, in the opinion of a majority of the council or in the opinion of the mayor, under any ordinance vesting in him such discretion, is a nuisance, within the said town, at the expense of the person or persons causing the same, or the owner or owners of the ground whereon the same may be, the collection of which said expense may be enforced in the same manner as fines due in the town; to provide for the drainage of lots by proper drains or ditches; to prevent or regulate slaughter houses or the exercise of any dangerous, offensive or unhealthy business, trade or employment within the town.

Seventh: To regulate or prohibit the sale and use of fireworks within said town; to require and compel the owners of houses in the town to connect their toilets or drains with the sewer of the town, or with the sewers of any corporation or company within said town.

Eighth: To prevent hogs, dogs, cows or other animals from running at large in the town and trespassing upon public property and may subject the same and the owners thereof to such levies, taxes and regulations as they may think proper.

Ninth: To restrain and punish drunkards, vagrants, and street beggars; to prevent vice and immorality; to preserve public peace and good order; to prevent and quell riots, disturbances and disorderly conduct and assemblages; to suppress houses resorted to for the purpose of immorality and houses used for gambling purposes; to prevent and punish lewd, indecent and disorderly conduct or exhibitions within the town, and to expel therefrom persons guilty of such conduct; to punish for the use of abusive language; to protect houses of divine worship and the public buildings in said town; to prevent the carrying of concealed weapons in said town and to preserve the peace and good order of the town.

Tenth: To purchase, hold, sell and convey all real and personal property for the purposes of the corporation, and within the limits of the Constitution of this State, and in accordance with the provisions of the general laws thereof, may, in the name of, and for the use of the town, contract loans, or cause to be issued certificates of indebtedness, notes or bonds. The council shall not contract any loan or issue bonds therefor unless the same be approved or authorized by a two-thirds vote of the council, endorsed by a majority of those voting of the qualified voters. All proceedings for the purpose of authorizing the issuance of bonds or other evidence of indebtedness by the town shall

conform to the provisions of the general laws of the State of Virginia with respect to the issuance of bonds by towns, so far as the same are applicable.

Eleventh: To acquire land by condemnation or otherwise without the corporate limits of the town for public purposes.

Twelfth: To adopt any rule, regulation or ordinance authorized by general laws of the Commonwealth to be adopted by towns. (1952, c. 709; 1954, c. 69)

§ 9. Where, by the provisions of law, the council have authority to pass ordinances on any subject, they may prescribe punishment by fine or imprisonment, or both, for all violations thereof, the fine not exceeding one hundred dollars and the punishment not exceeding twelve months in jail, either or both. Fines may be recovered, with costs, upon warrants issued in the name of the town. Whenever judgment is rendered against any person for a fine, the officer trying the offender may require immediate payment thereof, and in default of such payment may, within the limits provided by general law, commit the party so in default to jail until such fine and cost are paid. All fines for the violation of the ordinances of the town shall be paid into the treasury of the town and be appropriated as the council shall determine. There is reserved to the person convicted the right of appeal to the Circuit Court of Highland County. (1952, c. 709; 1954, c. 69)

§ 10. The mayor of the town of Monterey shall be clothed with full authority to enforce the laws and the ordinances of the town and he shall be clothed with all powers and authority of a trial justice in civil matters within the corporate limits of the town and in criminal matters within said limits and within one mile beyond such limits; and he shall have power to issue process, hear and determine all prosecutions, cases and controversies which may arise under the by-laws and ordinances of the town. The council shall have power to name one or more of the members of the council as vice-mayor with full power to exercise the authority of the mayor in the event of his absence or disability. (1952, c. 709)

§ 11. All criminal and civil warrants, writs and process issued by the mayor or any member of the council under the general laws of the State of Virginia shall run in the name of the "Commonwealth of Virginia," and all criminal or civil writs or process issued by the mayor or any member of the council for violation of an ordinance of the town shall run in the name of the "Town of Monterey," and all process and writs issued in the name of the town shall conform as nearly as may be to the form for similar writs and process issued under general State laws. The mayor or member of the council trying the case shall have power to issue subpoenas for witnesses, and to compel their attendance, and in the event of the failure of the witness to appear to punish such offender for contempt by fine not exceeding ten dollars. (1952, c. 709)

§ 12. The town sergeant shall perform the duties and be subject to the liabilities prescribed by this charter and by the general law and by the ordinances, by-laws and regulations of the town council. He shall have authority to execute criminal process issued under authority of this charter and to make arrests for violation of the laws and ordinances of the town and shall have general police powers. It shall be the duty of the sergeant or any police officers to swear out warrants of arrest for any person or persons where they have reason to believe that any violation of the ordinances, by-laws, rules and regulations of the town have been committed. (1952, c. 709)

§ 13. To meet the expenditures that may be lawfully chargeable to the said town, the council may annually levy a town tax of so much as in its opinion may be necessary, upon all taxable persons and property, resident or situate within the said town, including the licensing of dogs, not exempted from taxation by the laws of the State; provided that a capitation tax not greater than one dollar per head on the inhabitants of the said town over the age of twenty-one years may be levied in any one year; and provided further, that the tax so to be levied on the real and personal property, fiduciaries and merchants' capital within the said town does not exceed two dollars on the one hundred dollars of assessed valuation thereof for any one year. (1952, c. 709)

§ 14. The town council, in addition to the State taxes on licenses, may, subject to § 58-500 of the Code of Virginia, when anything for which a license is so required is to be done within the town, impose a tax for the privilege of doing the same and require a license to be obtained therefor, said licenses to be for such time and cover such period as the council of the said town shall prescribe; and in any case in which they see fit may require from the person licensed, bond with surety, in such penalty and with such condition as they may deem proper, or make other regulations concerning the same and within the limits of the Constitution of the State and of the United States, may levy a license tax on any other business carried on in the town, whether a license tax is required therefor by the State or not. The council shall also have the right to impose a tax upon paid admissions to moving picture theaters or to any other show, entertainment, sporting event or place of amusement, and to require the management in charge of such theatre, show, entertainment, sporting event or place of amusement to collect and remit such tax to the town treasurer. The rate of such admission tax shall be fixed by the council. (1952, c. 709)

§ 15. The town council shall, by ordinance, fix the time of their stated meetings, and no business shall be transacted at a special meeting unless all members of the council be present, but that for which it shall be called. The mayor or any two members of the council may call a special meeting, and reasonable notice of such meeting, in writing, shall be given to all members of the council. Any action taken at a special meeting, whether notice thereof be given or not, shall be valid if all members of the council are present. (1952, c. 709)

§ 16. The treasurer shall receive all money belonging to the town and shall perform such other duties as are, or may be, prescribed by the council. He shall keep his books of accounts in such manner as the council may prescribe, and such books and accounts shall always be subject to inspection of the mayor and the council. (1952, c. 709)

§ 17. The treasurer, or by order of the council of the town, the town sergeant, or any other person appointed by the council, shall collect all taxes, licenses and assessments which may be levied by the council, and for this purpose the said treasurer, or other person appointed by the council as aforesaid, shall be vested with power and be subject to the liabilities and penalties now prescribed by law in regard to the county treasurer, in the levying and collection of taxes, and the said treasurer or person appointed as aforesaid to collect taxes, shall have full power to levy on property and sell the same for the payment of taxes as the county treasurer is given by law. All sales shall be made upon the notice and in such manner as now prescribed by law in sales of personal property for State taxes or county taxes. The treasurer shall be required to keep

all funds in his hands belonging to the town in such place or places of deposit as the town council, by ordinance, shall provide or direct. (1952, c. 709)

§ 18. No money shall be paid out by the town treasurer except by order of the council, and upon a warrant or check of the clerk of the council, signed by the mayor, or in such other manner as may be prescribed by ordinance. (1952, c. 709)

§ 19. The clerk of the council shall attend the meetings of the council and keep the records of its proceedings. He shall have custody of the corporate seal, and he shall keep all papers that, by the provisions, or the direction of the council, are required to be filed with or kept by him; and he shall perform such other acts and duties as the council may require. (1952, c. 709)

§ 20. The fiscal year for the town shall be from the first day of July to the thirtieth day of June of each year. (1952, c. 709)

§ 21. All bonds, contracts, deeds, and other papers made on the part of said town, shall be executed by the mayor under the direction of the council, and the seal of the corporation shall be affixed and attested by the clerk of the council. (1952, c. 709)

§ 22. All the rights, privileges, and properties of the town of Monterey heretofore acquired and possessed, owned and enjoyed by any act or acts now in force, and not in conflict with this act, shall continue undiminished and remain vested in said town under this act; and all laws, ordinances and resolutions of said town now in force and not inconsistent with this act, shall remain in force until repealed by the council of said town. (1952, c. 709)

§ 23. In the event of a vacancy occurring in the council by death, resignation, removal or otherwise, the council shall appoint a qualified person to fill the vacancy for the unexpired term. (1952, c. 709)

§ 24. If any person be sentenced to jail for violation of a town ordinance, he may be confined in the jail of Highland County, the consent to use the said jail for said purpose being first obtained from proper authorities of the county. (1952, c. 709)

§ 25. If any section, or provision, of this act shall for any reason be adjudged in any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act. (1952, c. 709)